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EXAMINER

ZURITA, JAMES H

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 09/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application N .

09/748,729

Applicant(s)

WILLIAMS, LAWRENCE E.

Examiner

James Zurita

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4-9 and 11-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-9 and 11-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

A First Office action rejected claims 1-14 under 35 U.S.C. 103(a).

In a response of 30 June 2003, Applicant cancelled claims 3 and 10, amended claims 1, 8, 14, and added claims 15-19.

Rejection of claim 1 under second paragraph of 35 U.S.C. 112 is withdrawn in view of amendment.

Claims 1, 2, 4-9, 11-19 are pending and will be examined.

### ***Response to Arguments***

Applicant's arguments filed 30 June 2003 have been fully considered but they are not persuasive.

Applicant argues that neither Wireless Internet nor InfoGation teach, suggest disclose claim limitations introduced by amendment. The Examiner respectfully notes that newly introduced limitations are more fully discussed in the rejection below.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by

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combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found *either in the references themselves or in the knowledge generally available to one of ordinary skill in the art*. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the Examiner relied on *Wireless Internet* and *InfoGation* for various teachings that disclose applicant's invention.

A "traverse" is a denial of an opposing party's allegations of fact.<sup>1</sup> The Examiner respectfully submits that applicants' arguments and comments do not appear to traverse what Examiner regards as knowledge that would have been generally available to one of ordinary skill in the art at the time the invention was made, or Examiner's interpretation of teachings found in *Wireless Internet* and *InfoGation* that disclose applicant's invention.

Even if one were to interpret applicants' arguments and comments as constituting a traverse, applicants' arguments and comments do not appear to constitute an adequate traverse because applicant has not specifically pointed out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. 27 CFR 1.104(d)(2), MPEP 707.07(a). An adequate traverse must contain adequate information or argument to create on its face a reasonable doubt regarding the

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<sup>1</sup> Definition of Traverse, Black's Law Dictionary, "In common law pleading, a traverse signifies a denial."

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circumstances justifying Examiner's notice of what is well known to one of ordinary skill in the art. In re Boon, 439 F.2d 724, 728, 169 USPQ 231, 234 (CCPA1971).

The Examiner respectfully notes that where applicant does not seasonably traverse the well known statement during examination, then the object of the well known statement is taken to be admitted prior art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). [MPEP 2144.03 Reliance on Common Knowledge in the Art or "Well Known" Prior Art]

### ***Drawings***

The drawings were received on 30 June 2003. These drawings are acceptable.

### ***Claim Objections***

Claims 7 and 14 are objected to because the claims refer to "personalized information." This appears to be a word processing error, since all other instances of "personalized information" were changed to "medical log of the customer." For purposes of this examination, the Examiner will interpret claims 7 and 14 to have been properly amended.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

Claims 1, 8, 15, 16 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims refer to “medical log” of a customer. While the term is mentioned in various places, applicants do not define what information is contained in the medical log. For purposes of this examination, the term “medical log” will be given its broadest reasonable interpretation to include *any* type of information concerning a customer’s health, including any type of medical information or history.

The claims refer to “medical roadside emergency.” Applicant fails to define what constitutes a “medical roadside emergency.” For purposes of this examination, the term “medical roadside emergency” will be given its broadest reasonable interpretation to include any type of situation where a customer feels he has need of *any* type of medical care.

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claims 1, 2, 4-6, 8-9, 11-13, 15-19 are rejected under 35 U.S.C. 103(a)** as being unpatentable over an article entitled an article by Charles Mason, “Wireless Internet gives auto industry the buzz,” published on 1 December 1999 in America's Network, downloaded from the internet 10 April 2003, hereinafter *Wireless Internet*, in view of Kennedy III et al. (US Patent 6,535,743).

Wireless Internet discloses all the limitations of the claims, such as enabling customers to link, via the electronic media of the Internet, to one or more service providers, including telematics (in-vehicle telecommunications services) service providers (TSP). Wireless Internet also discloses that services may be offered by a variety of TSP's through web sites and portals (i.e., applicant's "virtual garage"). Portals have communication links to a plurality of TSP's.

Web sites and portals can be accessed through wireless internet connections (for example, page 2, references to wireless internet users who would obtain personalized information). Customers can request and receive personalized information from one or more portals. Personalized information may include traveled miles, route conditions, weather forecasts, contact information in emergencies (for example, page 4, real-time vehicle diagnostics reporting; page 5, **emergency calls**, which could include calls concerning accidents). The information is personalized information because it pertains to specific customers and their devices: traveled miles by a customer, weather forecasts in an area specified by a customer, emergency contact information for a customer, etc. Other TSP services available through Internet sites may include stolen vehicle tracking, remote door unlock, remote vehicle diagnostics, route support, convenience services locator and concierge services (e.g., page 5).

Wireless Internet discloses that customers may access and monitor third-party systems and devices via gateways and gateway technology (for example, page 4).

Customers may use telematics devices, cellular phones and handheld devices to send and receive messages, place voice calls and receive proximity and actual vehicle

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locations over wireless connections (for example, page 2, see references to SPRINT PCS voice and data services and references to mobile communications and tracking services).

Wireless Internet *does not* specifically disclose that a website or portal is applicant's "Life Management and Enhancement Server" which offers links to services such as automotive information, travel information, entertainment information, health information, recreation, etc. However, Wireless Internet teaches that hundreds of thousands of new users log-on to access information and engage in electronic commerce. Wireless Internet also suggests that there is powerful economic motivation for wireless carriers and TSPs to tap into the enthusiasm raised by combining wireless data applications and ordinary Internet electronic commerce.

Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to expand the teachings of Wireless Internet and include connections to web sites that offer services such as automotive information and travel information. One of ordinary skill at the time the invention was made would have been *motivated* to expand the teachings of Wireless Internet and include connections to web sites that offer services such as automotive information and travel information for the obvious reason that one can centralize a customer's needs for various services and provide seamless integration of personalized information, regardless of its source and means of transmission. Combining ordinary Internet electronic commerce applications, "life management" applications and telematics services permit a customer to simplify his access to computing resources. It is *well known* that customers may get confused



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when they are called on to remember how to access different services from multiple providers. By combining personalized services and information, a company can offer to reduce complexity for a customer. A company may offer single-billing services for all of the services provided, thereby reducing paperwork and billing complexities.

Wireless Internet *does not* specifically disclose transmitting updates from a plurality of TSP's to a portal. However, Wireless Internet discloses that TSP's may provide information concerning maintenance scheduling, proximity locators, direction finding and vehicle location. It is *well known* that this type of personalized information needs to be updated periodically. For example, if a customer retrieves vehicle location that has not been updated from before, the customer may not be able to tell if he is traveling in the right direction. Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to transmit updates from TSPs. One of ordinary skill at the time the invention was made would have been *motivated* to transmit updates from TSPs for the obvious reason that customers need information that is reliable and in tune with their actions. For example, personalized information concerning rush-hour traffic congestions would be useless if a TSP transmits information that has not been updated from before. Customers may cease to rely on a provider and take their business elsewhere. This loss of business, if generalized, may well cause TSPs and portals to go bankrupt if they do not transmit updates.

*Wireless Internet* describes transmitting data from in-vehicle devices during emergencies and providing help to customers. For example

The OmniTracs system, while *transmitting data* from place to place, also manages the data flow, turning it into information that can be used for various purposes throughout a

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trucking company's operation ...offers a full suite of application software and the most comprehensive library of integration links available...

OnStar is an in-vehicle safety, security and information service that uses global positioning system (GPS) satellite technology and wireless communications to link the driver and vehicle to the 24-hour OnStar Center, where advisors provide real-time, person-to-person *help*. The company is now offering the service as a *factory-installed* option on several models and is expanding the selection of those models. "Factory installation of OnStar will expand the availability of this innovative service to a million GM drivers beginning in the 2000 model year," says Ronald L. Zarrella, executive vice president of GM and president of North America Operations.

... the service has logged more than one million calls from subscribers, including emergency requests, since being first offered three years ago. In addition to emergency calls, OnStar offers *stolen vehicle tracking*, remote door unlock, remote vehicle diagnostics, route support, convenience services locator and concierge services, OnStar was introduced in 1996 on three Cadillac models as a dealer-installed option. Twenty-one GM models were added in 1997. OnStar launched its second-generation *three-button* system in 1999 as standard equipment on the Cadillac Escalade, and as optional equipment on 11 additional models. (*Wireless Internet*, page 4-5)

*Wireless Internet* does not provide specific details concerning *medical* roadside emergencies. *Wireless Internet* does not specifically disclose applicant's amended limitations such as transmitting a *medical* log to a telematics device of a vehicle, storing the *medical* log in an on-board database, retrieving the *medical* log from the on-board database during a *medical* roadside emergency.

Kennedy discloses activating emergency assistance buttons to summon medical personnel in the event of medical emergencies. Medical personnel travel in appropriate emergency assistance vehicles. This mechanism provides relevant medical information about the customer (see, for example, Col. 15, lines 7-53).

Kennedy also discusses the use of 911 numbers. For example, Col. 5, lines 48-58). 911 is an emergency reporting system whereby a caller can dial a common number for all emergency services. The caller will be answered at a common answering location (public service answering point - PSAP) which figures the nature of the emergency and dispatch the proper response teams.

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Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Wireless Internet and Kennedy to disclose their use in medical roadside emergencies, transmitting a medical log to a telematics device of a vehicle, storing the medical log in an on-board database, and retrieving the medical log from the on-board database during a medical roadside emergency.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine Wireless Internet and Kennedy to disclose their use in medical roadside emergencies, transmitting a medical log to a telematics device of a vehicle, storing the medical log in an on-board database, and retrieving the medical log from the on-board database during a medical roadside emergency for the obvious reason that during medical emergencies, critical information such as a person's medical information may enable emergency medical personnel to diagnose a person's condition more quickly. Given information such as a person's allergic reaction to certain medications, for example, EMT crews may avoid administering those medications.

**Claims 7 and 14 are rejected under 35 U.S.C. 103(a)** as being unpatentable over an article entitled an article by Charles Mason, "Wireless Internet gives auto industry the buzz," published on 1 December 1999 in America's Network, downloaded from the internet 10 April 2003, hereinafter Wireless Internet, in view of Kennedy (above) and further in view of an article entitled "InfoGation Corp. Introduces Productivity, Navigation, Safety and Communication Software Applications for Next-Generation Smart Car Systems," PR Newswire, New York, January 8, 1998, downloaded from the Internet on 10 April 2003, hereinafter InfoGation.

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Wireless Internet does not specifically disclose that transmitting information from a portal to customer device is via FM subcarrier network. It is well known that information may be transmitted from TSP's to telematics devices via FM subcarrier networks. For example, InfoGation discloses that CUE's FM subcarrier network reaches over 80% of the North American population and interstate highway system. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Wireless Internet with InfoGation and disclose transmitting information from a portal to a customer device over an FM subcarrier network. One of ordinary skill in the art at the time the invention was made would have been motivated to combine Wireless Internet with InfoGation and disclose transmitting information from a portal to a customer device over an FM subcarrier network for the obvious reason that FM subcarrier networks provide a simple, efficient and proven way to reach a large number of customer devices.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not


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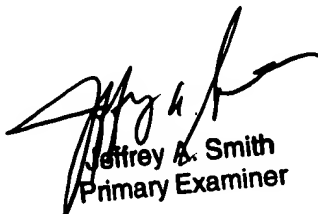
mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Zurita whose telephone number is 703-605-4966. The examiner can normally be reached on 8:30 am to 5:00 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 703-308-1344. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

 **James Zurita**  
**Patent Examiner**  
**Art Unit 3625**  
19 September 2003

  
**Jeffrey A. Smith**  
**Primary Examiner**